

In re:
Kristina Lynn Smith
Debtor

Case No. 24-12527-SC
Chapter 7

CERTIFICATE OF NOTICE

District/off: 0973-8
Date Rcvd: Jun 05, 2025

User: admin
Form ID: pdf042

Page 1 of 2
Total Noticed: 1

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jun 07, 2025:

Recip ID	Recipient Name and Address
db	+ Kristina Lynn Smith, 27591 Kathy Ct, Laguna Niguel, CA 92677-6025

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jun 07, 2025

Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on June 5, 2025 at the address(es) listed below:

Name	Email Address
Benjamin Heston	on behalf of Creditor Jeffrey Adams Gomez bhestonecf@gmail.com benheston@recap.email,NexusBankruptcy@jubileebk.net
David Coats	on behalf of Creditor Wells Fargo Bank N.A. dacoats@raslg.com
Jacob Newsum-Bothamley	on behalf of Trustee Richard A Marshack (TR) jacob.bothamley@dinsmore.com bonnie.connolly@dinsmore.com
Jennifer C Wong	on behalf of Interested Party Courtesy NEF bknotice@mccarthyholthus.com jwong@ecf.courtdrive.com
Julie J Villalobos	on behalf of Debtor Kristina Lynn Smith julie@oaktreelaw.com oakecfmail@gmail.com;villalobosjr51108@notify.bestcase.com:gus@oaktreelaw.com
Matthew J Stockl	on behalf of Trustee Richard A Marshack (TR) mstockl@otterbourg.com katrice.ortiz@dinsmore.com

District/off: 0973-8

User: admin

Page 2 of 2

Date Rcvd: Jun 05, 2025

Form ID: pdf042

Total Noticed: 1

Richard A Marshack (TR)

pkraus@marshackhays.com ecf.alert+Marshack@titlexi.com

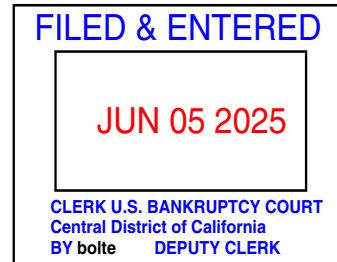
Richard G. Heston

on behalf of Creditor Richard G Heston rheston@hestonlaw.com
yflore@hestonlaw.com,docs@hestonlaw.com,HestonRR41032@notify.bestcase.com,hestonlaw@recap.email

United States Trustee (SA)

ustpregion16.sa.ecf@usdoj.gov

TOTAL: 9



**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA DIVISION**

In re:

Kristina Lynn Smith,

Debtor.

Case No.: 8:24-bk-12527-SC

CHAPTER 7

**ORDER CONTINUING HEARING ON
OBJECTION TO CLAIM 5-1 AND SETTING
DATE OF EVIDENTIARY HEARING AND
ESTABLISHING PROCEDURES FOR
EVIDENTIARY HEARING**

Vacated Hearing Date:

Date: June 5, 2025

Time: 10:00 a.m.

Courtroom: 5C

Evidentiary Hearing

Date: July 14, 2025

Time: 9:30 a.m.

Courtroom: 5C – In-Person

The Court has considered the Objection to Claim 5-1 [Dk. 62] (the “Claim Objection”) filed on April 11, 2025 by Jeffrey Gomez, the Declaration of Creditor Smith Contesting Objection to Claim by Jeff Gomez [Dk. 77] (the “Opposition”) filed on April 30, 2025 by Howard Smith, the Reply in Support of Objection to Claim 5-1 [Dk. 80] (the

1 “Reply”) filed on May 6, 2025 by Jeffrey Gomez, and has determined that an evidentiary
2 hearing is required to resolve factual disputes related to the Proof of Claim filed by
3 Howard Smith in the above-captioned bankruptcy case on January 17, 2025. As set
4 forth below, the Court finds good cause to set an evidentiary hearing in this matter on
5 **July 14, 2025, at 9:30 a.m.**, with supplemental briefs, exhibits, and witness lists, due 14
6 days in advance.

7 **I. Background**

8 Kristina Lynn Smith (“Debtor”) and Jeffrey Gomez have been involved in a
9 contentious divorce proceeding in the California Superior Court (the “Divorce
10 Proceeding”) since September 2016. Debtor filed her voluntary bankruptcy petition
11 initiating this chapter 7 case on October 3, 2024, and Richard A. Marshack was duly
12 appointed as chapter 7 trustee (the “Chapter 7 Trustee”) for the bankruptcy estate.

13 On October 28, 2024, the Chapter 7 Trustee filed a Notification of Asset Case
14 [Dk. 13] and the Clerk of the Bankruptcy Court issued a Notice of Possible Dividend and
15 Order Fixing Time to File Claims [Dk. 13]. Howard Smith timely filed claim number 5-1
16 on the Court’s claims register (“Claim 5”) asserting a nonpriority unsecured claim in the
17 amount of \$689,000.00, arising from “[l]oans for legal services and living expenses.”
18 Claim 5 also includes documentary evidence in the form of (1) a promissory note, dated
19 May 24, 2017, in the amount of \$500,000.00 (the “\$500K Note”), and (2) a promissory
20 note, dated August 21, 2020, in the amount of \$178,000.00 (the “\$178K Note”)
21 (collectively, the “Notes”). Both Notes purport to be secured by interests in various real
22 properties but appear to be unperfected.¹

23 On April 11, 2025, Jeffrey Gomez filed his Claim Objection seeking disallowance
24 of Claim 5 pursuant to 11 U.S.C. § 502(b)(1) on alternate grounds that Claim 5 is
25 unenforceable because it is fraudulent and based on fabricated documents, time-barred
26 by the statute of limitations, or unenforceable for lack of consideration. Mr. Gomez
27 includes the declaration of a certified computer forensic investigator, Michael Kunkel, in
28

¹ The Court, at this time, makes no finding or determination as to the issue of perfection.

1 support of his Claim Objection. Howard Smith filed his Opposition on April 30, 2025,
2 consisting of his declaration, Debtor's declaration and unauthenticated copies of written
3 messages from Mr. Gomez to Debtor (the "Messages") on "Our Family Wizard," the
4 communication platform used by Mr. Gomez and Debtor in the Divorce Proceeding.

5 The pleadings filed in relation to the Claim Objection have revealed that the
6 Notes submitted as evidentiary support for Claim 5 are not the original copies, a fact
7 that is not disputed by Mr. Smith or Debtor. Mr. Smith and Debtor contend that the
8 Notes submitted in support of Claim 5 are "replicate" notes replacing the original lost
9 promissory notes executed on May 24, 2017, hereinafter referred to as the "Alleged
10 Replicate Notes." Mr. Smith and Debtor represent that the Alleged Replicate Notes
11 were created in 2021, after the original promissory notes could not be located. Mr.
12 Gomez maintains that the Alleged Replicate Notes are wholly fabricated and
13 fraudulently made in service of Debtor's desire and efforts to "give[] the appearance of
14 a large pool of unsecured claims, when in fact there are minimal claims which would not
15 justify any inquiry into the Debtor's baseless claim that she has an ownership interest in
16 Mr. Gomez's separate real property estate." Reply at p. 6, lines 4-7.

17 The Court, having considered the Objection to Claim, the Opposition, and the
18 Reply, as well as the documents and pleadings filed in this case and the record as a
19 whole, and in light of the numerous factual disputes and allegations of intentional
20 obfuscation and misconduct in this contested matter, finds good cause to conduct an
21 evidentiary hearing on the Objection to Claim.

22 **II. Evidentiary Hearing**

23 Accordingly, on **July 14, 2025, at 9:30 a.m.**, the Court will conduct an evidentiary
24 hearing for the following purposes:

25 1. Mr. Smith and Debtor will be required to make a detailed written offer of
26 proof documenting the making of a loan or loans from Mr. Smith to Debtor in May 2017.
27 This offer of proof shall include, but is not limited to: (a) documentary evidence of the
28 amount and the date(s) on which Mr. Smith acquired sums of money from Kerry and

1 Scott Kavanaugh to fund the loans made to Debtor, (b) documentary evidence of the
2 transfer of those funds from Mr. Smith to Debtor, including the amount(s) and date(s) of
3 each and any transfer made, and (c) any other relevant records and/or evidence related
4 to the making and funding of the loans described in the Notes;

5 2. Mr. Gomez will be required to respond to allegations in the Opposition that
6 he has previously acknowledged the existence of the disputed loans in September 2022
7 and June 2023, and shall address why Mr. Gomez's failure to respond to those
8 allegations should not be considered as an admission that he previously acknowledged
9 the making of loans which he now alleges are wholly fabricated and fraudulent;

10 3. Mr. Smith will be required to submit properly authenticated copies of the
11 Messages before they may be considered admissible evidence in this matter; and

12 4. The parties will be required to present written argument and/or
13 documentary evidence regarding any other relevant issue identified by the Parties as
14 necessary to prosecute or defend against the Claim Objection.

15 **A. BRIEFS**

16 Each party shall file and serve a brief on each other and chambers not later than
17 **June 30, 2025**, which shall only address the above-referenced issues. Unless
18 specifically requested by the Court as set forth herein, or in a separate order or tentative
19 ruling, no additional pleadings will be considered.

20 **B. EXHIBITS**

21 If parties intend on using any exhibits at the evidentiary hearing, the following
22 procedures apply:

- 23 1. Parties must serve each other and chambers with a list of all exhibits, **with the**
24 **actual exhibits tabbed and attached, by June 30, 2025.**
- 25 2. All exhibits must be marked prior to the commencement of the evidentiary
26 hearing. Exhibit tags must be stapled to the bottom (right) of the first page of
27 each exhibit. All exhibits shall be marked for identification with tags available
28 from the court recorder or the clerk's office. Unless the parties agree upon a

unified, joint set of exhibits, the plaintiff's exhibits shall be identified with yellow exhibit tags and marked in numerical order, and the defendant's exhibits shall be identified with blue exhibit tags and marked in alphabetical order.

3. All exhibits must be in a binder or notebook in the format provided for in the Court's instructions, set forth on the website. Each such binder or notebook shall include as its first page an exhibit register. A sample exhibit register may be obtained from the court recorder or from the clerk's office and must be procured sufficiently in advance of the trial date to permit the completed register to be available at the commencement of the trial.

4. ***Do not file an exhibit register with the clerk's office.*** A completed exhibit register is to be handed to the court recorder prior to the beginning of the evidentiary hearing. Each party shall bring sufficient copies of its exhibit binder, containing its exhibit register and all exhibits, for all parties, the witness stand, the court reporter and the judge.

5. Unless the parties stipulate to the foundation for, and admissibility of, an exhibit, any exhibit that any party intends to introduce at the evidentiary hearing must be attached to and authenticated by a declaration or a request for judicial notice filed by the applicable deadline for the filing of that party's declarations.

C. WITNESSES

If parties intend to call any witnesses at the evidentiary hearing, they must serve each other and chambers with a list of all witnesses they intend to call at the evidentiary hearing, by **June 30, 2025**.

D. DEPOSITION TRANSCRIPTS

Each party intending to offer any evidence by way of deposition testimony (if applicable) pursuant to Fed. R. Civ. Proc. 32 shall lodge with the clerk a copy of the deposition transcript or pages from the transcript to be offered, marked to reflect the portions to be offered, **at least 14 days** before the evidentiary hearing. Transcripts may be bound on the left side and do not have to be hole-punched or blue-backed. Original

1 deposition transcripts will be treated as trial exhibits and will be delivered to the judge
2 for the evidentiary hearing.

3 **E. EVIDENTIARY HEARING PROCEDURES**


4 Parties must review and follow all applicable Federal Rules of Bankruptcy
5 Procedure, Federal Rules of Evidence, Federal Rules of Civil Procedure, Local
6 Bankruptcy Rules, and this Court's procedures (as posted on the Court's website). This
7 Court's procedures for regular trials and evidentiary hearings will be applicable.

8 **F. APPEARANCES**

9 **All parties, counsel and witnesses must physically appear on July 14, 2025,**
10 **at 9:30 a.m. in Courtroom 5C located at 411 W. Fourth Street, Santa Ana, CA**
11 **92701.**

12
13 **IT IS SO ORDERED.**
14
15
16
17
18
19
20
21
22
23

24
25 Date: June 5, 2025

26
27
28

Scott C. Clarkson
United States Bankruptcy Judge